IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

WRIT PETITION NO. 9359 OF 2004

Bank Karmachari Sangh ..Petitioner

Vs.

Vilas B.Desai and Ors. ..Respondents

....

Shri.A.D.Patwardhan Advocate for Petitioner
Shri.P.M.Huddar Advocate for Respondent no.3.

....

CORAM : B.H.MARLAPALLE,J.

DATE : JANUARY 24,2005

P.C.:

1. Heard Mr.Patwardhan, the learned counsel for the Petitioner and Mr.Huddar for Respondent no.3.

2. Revision Application (IC) No.1 of 2003 came to be filed by the present Petitioner Union before the Industrial Court at Pune under Section 85 of the Bombay Industrial Relations Act 1946 ('BIR Act' for short), challenging the Award dated 31st January, 2003 passed by the Wage Board in Reference (IC) Nos. 6 to 16 of 2002. The said Revision was filed and verified on behalf of Petitioner-Union by Shri.Vilas Balwant Desai in his capacity as the Assistant Secretary of the said Union. On 22nd July, 2004 two separate applications came to be filed, one by Shri.Abhyankar in his capacity as the General

Secretary and the other one by Shri.V.B.Desai in his capacity as the Assistant Secretary. Mr.Abhyankar applied for being impleaded as the co-applicant whereas Mr.Desai submitted an application below Exhibit-U-22 for withdrawing the Revision Application. The learned Member of the Industrial Tribunal heard and disposed of both these applications. The application filed by Mr.Abhyankar has been rejected whereas the application filed by Mr.Desai has been allowed by order dated 7th August, 2004 and thus, the Revision Application moved on behalf of the Petitioner-Union has been disposed of as withdrawn.

3. When the Revision was verified by Mr.Desai on behalf of the Union, the Industrial Court could not come in his way from withdrawing the Revision. The dispute regarding the election/appointment to the post of General Secretary is already pending before the competent forum and under such circumstances, it cannot be held that the Industrial Court fell in error in rejecting the application filed by Mr.Abhyankar. The Assistant Secretary who had filed the Revision and verified the same on behalf of the petitioner, submitted an application for withdrawal of the same and no error could be found in the order passed by the Industrial Court allowing the said application. Under such circumstances, the challenge

to the orders passed by the Industrial Court on 7th August, 2004 is devoid of merits in this petition under Article 227 of the Constitution of India.

4. However, the Union is not remedyless and if it files an application for restoration on the ground that the withdrawal application filed by Mr.Desai was submitted unauthorisedly or contrary to the decisions/Rules of the Union, the same will have to be decided by the Industrial Court as per law.

5. Writ Petition is rejected summarily and in case, the Petitioner-Union applies for restoration of the Revision within a period of two weeks from today, the Industrial Court is directed to hear and decide the same on its own merits within four weeks thereafter.

Writ to go forthwith.

Certified copy expedited.

[B.H.MARLAPALLE,J.]